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BOOK REVIEWS.

CASES ON CONSTITUTIONAL LAW. By JAMES PARKER HALL. St. Paul: WEST PUBLISHING Co. 1913. pp. xxxii, 1452.

In no legal subject is the case method of teaching more essential than in constitutional law; for in this field, more than in any other, general principles are not general, and rules and formulations are but a meager index to the actual concrete decisions which have to be reached. Abstract logic and literal interpretation of language furnish less adequate bases for legal argument and less certain grounds for prophecy of future decisions in constitutional law than in the great field of private law. And case books in public law topics become most quickly antiquated, because each year sees decisions on questions which have never before arisen and witnesses modifications of old doctrines because of expanding knowledge of the conditions to which the doctrines are to be applied. The monumental volumes of Thayer which were in their time such a valuable thesaurus of judicial opinions on the topics selected for treatment have for a number of years been ill-adapted to the best work of the class room. And McClain's Cases on Constitutional Law which have afforded the only available substitute fail to include a large number of recent decisions of the highest importance. Dean Hall's present volume, therefore, would be heartily welcomed by all teachers and students if only for the fact that it is completely up to date, including as it does cases decided in the Supreme Court up to the beginning of the present term.

Fortunately, however, its modernity is not its sole title to recognition. In scope, arrangement and notes it presents little ground for any adverse criticism. It is to be regretted that the extent of the field to be covered renders it necessary to present so many of the decisions in abbreviated form, but regret on this score is modified somewhat by the reflection that the judges have often been guilty of prolixity and that Dean Hall has exhibited sound discrimination in the task of excision. For his cutting down of the opinions he deserves praise. To the reviewer, however, the value of his collection for teaching purposes seems seriously impaired by the numerous substitutions of brief statements of facts by the editor for the longer and more complicated statements to be found in the reports. It is of great value to the student to be compelled to sift the constitutional question out of the entire situation in which it is embedded. He is thus trained in the important art of scenting constitutional issues in the litigation in which as a lawyer he will be engaged. But the compiler of a case book in constitutional law is beset with a difficult choice of evils. And Dean Hall has utilized to such good advantage the space he has gained that the criticism of the method employed should be more fairly directed against the exigencies of the law school curriculum which devotes so little time to such an extensive field.

After three introductory chapters dealing with the making and changing of written constitutions, the function of the judiciary in enforcing constitutions and the separation and delegation of powers of government, the collection is divided into two important parts, the one dealing with "Fundamental Rights" which occupies nearly 800 pages and concerns itself with those limitations in favor of indi-

vidual liberty against the action of both state and national governments, and the other with "The Federal Government". Under this latter head about 500 pages are devoted to the powers of Congress, foreign relations, the territories and dependencies, the relations between States and between a State and the United States, the jurisdiction of the federal courts, and the regulation of commerce. Praise is due to the excellent classification of topics under this latter head, as indeed throughout the collection. For example, in Part II, entitled "Fundamental Rights", three chapters are devoted to "Due Process of Law and Equal Protection of the Law", separate consideration being accorded to procedure, to the police power, and to the effect of these clauses as restrictions on the taxing power. In his system of classification the compiler has had regard both for the individual and governmental interests which present questions for adjudication and for the clauses of the constitution under which those questions must be determined. His sense of proportion deserves the same commendation as that which must be accorded to his gift for classification and arrangement.

A word remains to be said as to the notes. They are sufficiently full to enable one who has industry to read the cases cited to obtain a better knowledge of constitutional law than can be gathered from the treatises. They will save time in the class room for both instructor and student, though they are of course open to the general objection against extensive annotation, that they may deprive the student of that quality of ignorance which brings him to the class room open-minded to discuss questions on the basis of theory and principle without the bias of judicial authority. But students may possibly be prevailed upon to restrain their zeal for knowledge until after lectures; and often the notes merely indicate sources of further information, without setting it forth. They are the fruit of wide erudition and exhibit a happy faculty for compression.

Thomas Reed Powell.

AMERIKANISCHE PRISENGERICHTSBARKEIT. By GEORGE CHARLES BUTTE, Dr. Jur. Heidelberg: ROSSLER & HERBERT. 1913. pp. 172.

This carefully studied treatise on American Prize Court jurisdiction is of special interest from its discussion of the constitutional difficulties in the way of our uniting in the establishment of a World Prize Court of Appeal, of the form proposed by the second Hague Conference for the Advancement of Public International Law, and to which, by June 9, 1913, notice had been received, at the foreign office at the Hague, of the provisional assent (p. 22) of thirty-three powers.

The author gives us full credit for our efforts, from the beginning of our national history, to secure such advancement, and instances particularly the provision Franklin introduced in our treaty with Prussia in 1785 for the immunity of private property at sea, and our various Acts of Congress prohibiting, as violations of neutrality, the furnishing of material of war to a belligerent. We, as he says, quoting Kleen, *Lois et Usages de la Neutralité*, created the modern doctrine of a neutral's obligations (p. 4).

Dr. Butte finds no difficulty in the American proposition that, so far as the United States are concerned, the remedy whereby the new court shall give relief, in case of an erroneous decision of one of our